

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

|   |   |                         |
|---|---|-------------------------|
| In the Matter of                              | ) |                         |
|   | ) |                         |
| Township of West Orange, New Jersey           | ) | FCC File No. 0003721208 |
|   | ) |                         |
| City of New York, New York                    | ) | FCC File No. 0003725074 |
|   | ) |                         |
| and   | ) |                         |
|   | ) |                         |
| New Jersey Transit Corporation                | ) | FCC File No. 0003821824 |
|   | ) |                         |
| Applications for Licenses in the 800 MHz Band | ) |                         |

**MEMORANDUM OPINION AND ORDER AND ORDER PROPOSING MODIFICATION**

**Adopted: April 11, 2013**

**Released: April 11, 2013**

By the Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

**I. INTRODUCTION**

1. In this *Memorandum Opinion and Order and Order Proposing Modification*, we resolve a licensing dispute involving the Township of West Orange, New Jersey (West Orange), the City of New York, New York (NYC), the New Jersey Transit Corp. (NJ Transit) and Commission-certified frequency coordinators, PCIA—the Wireless Infrastructure Association (PCIA) and the International Municipal Signal Association (IMSA). IMSA, NYC and NJ Transit all have objected to the modification of license of West Orange’s Trunked Public Safety Station WPCE346,<sup>1</sup> to operate on frequency pairs 854/809.3125 MHz and 854/809.3375 MHz.<sup>2</sup> For the reasons set out below, we propose to delete the frequency pairs 854/809.3125 MHz and 854/809.3375 MHz from West Orange’s license.

**II. BACKGROUND**

2. In 2004, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band.<sup>3</sup> As part of this reconfiguration, the Commission made spectrum relinquished by Sprint Nextel Corporation (Sprint) in the Interleaved Band (809-815/854-860 MHz)

<sup>1</sup> FCC File No. 0003721208 (filed Jan. 29, 2009) *re* WPCE346.

<sup>2</sup> See Letter from Richard Klinsman, National Frequency Coordinator, IMSA/IAFC to Marlene H. Dortch, Secretary, FCC and David Furth, Acting Chief, Public Safety and Homeland Security Bureau, FCC (dated Mar. 6, 2009) (IMSA Letter); Letter from Felix L. Melendez, Director, FCC Licensing Support, City of New York, Department of Information Technology and Telecommunications to David Furth, Acting Chief, Public Safety and Homeland Security Bureau, FCC (dated Mar. 3, 2009) (NYC Letter); and Letter from Ed Velez, New Jersey Transit to Marlene H. Dortch, Secretary, FCC and David Furth, Acting Chief, Public Safety and Homeland Security Bureau, FCC (dated Mar. 27, 2009) (NJ Transit Letter). IMSA, NYC and NJ Transit filed their objections in the Commission’s Universal Licensing System (ULS). See FCC File No. 0003721208.

<sup>3</sup> See Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd. 14969 (2004); *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120 (2004), *review denied sub nom. Mobile Relay Associates v. FCC*, 457 F.3d 1 (D.C. Cir. 2006); *Memorandum Opinion and Order*, 20 FCC Rcd 16015 (2005); *Second Memorandum Opinion and Order*, 22 FCC Rcd 10467 (2007). See also *Kay v. FCC*, No. 06-1076 (D.C. Cir. filed Feb. 24, 2006) (holding additional appeals in abeyance).

available for licensing exclusively to public safety applicants for three years, and then to public safety and critical infrastructure industry (CII) applicants for the next two years.<sup>4</sup> Thereafter, the Sprint-vacated spectrum reverts to the categories (public safety, Business/Industrial Land Transportation (B/ILT) and Specialized Mobile Radio (SMR)) specified in Section 90.615 of the Commission's Rules.<sup>5</sup>

3. In December 2008, the Public Safety and Homeland Security Bureau (PSHSB) issued a *Public Notice* announcing that it would begin accepting applications for licensing of Sprint-vacated channels in the 809-809.5/854-854.5 MHz portion of the 800 MHz band in certain NPSPAC regions.<sup>6</sup> The *Vacated Spectrum Public Notice* provided specific information on available channels and also set out frequency coordination requirements, pre-filing notification and application procedures.<sup>7</sup> Among these requirements was that each certified frequency coordinator "must provide notification of each application submitted to it for coordination to all other participating coordinators prior to filing the application with the Commission."<sup>8</sup> The *Public Notice* explained that the purpose of the notification was "to enable frequency coordinators to address and resolve conflicting applications prior to filing with the Commission, starting at 8:00 a.m. January 14, 2009."<sup>9</sup> However, the *Public Notice* also stated that "[i]f conflicts are found, the application with the earliest notification date and time stamp will take precedence."<sup>10</sup>

4. IMSA claims that "[the Public Safety Communications Council] and [the Land Mobile Communications Council], including PCIA, agreed (per conference call held by LMCC on January 12, 2009) that all frequency coordinators would manually submit application notifications for Vacated Sprint Channels ('Agreement')."<sup>11</sup> IMSA states that on January 14, 2009 PCIA, using an automated, rather than manual, process, "batch filed" a number of applications notifying other frequency coordinators, *inter alia*, that West Orange intended to apply for frequencies 854/809.3125 MHz and 854/809.3375 MHz.<sup>12</sup> IMSA claims that PCIA's notification violated the Agreement because "all [PCIA] applications received timestamps within 1/1000th of a second of each other and of the filing start time of 8:00 am on January 14th, 2009."<sup>13</sup> IMSA argues that "[t]his notification method unfairly provided all PCIA applications filing priority over applications of all other coordinators, including IMSA, who adhered to the Agreement."<sup>14</sup>

5. On January 29, 2009, PCIA, on behalf of West Orange, applied through the Universal Licensing System (ULS) to modify West Orange's license for WPCE346 by adding, *inter alia*, frequencies 854/809.3125 MHz and 854/809.3375 MHz.<sup>15</sup> On February 3, 2009, on behalf of NYC, IMSA filed a mutually exclusive

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<sup>4</sup> See Public Safety and Homeland Security Bureau Announces Application and Licensing Procedures for Channels Relinquished by Sprint Nextel Corporation in the 809-809.5/854-854.5 MHz Band, WT Docket No. 02-55, *Public Notice*, 23 FCC Rcd. 18343 (PSHSB 2008) (*Vacated Spectrum Public Notice*).

<sup>5</sup> *Id.* 47 C.F.R. § 90.615.

<sup>6</sup> *Vacated Spectrum Public Notice*, 23 FCC Rcd. 18343.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 18345.

<sup>9</sup> *Id.* The *Vacated Spectrum Public Notice* also provided that, in the event there were mutually exclusive applications, the application with the earliest notification date and time stamp would prevail. "Later-notified applications must have their mutually exclusive channels deleted but may maintain their priority for channels that have no conflicts." *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> IMSA Letter at 2 (Emphasis supplied).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> FCC File No. 0003721208 (filed Jan. 29, 2009) *re* WPCE346.

application through ULS seeking the frequency pair 854/809.3125 MHz.<sup>16</sup> NYC's mutually exclusive application specified a site only 22.87 kilometers away from West Orange's Station WPCE346.<sup>17</sup> IMSA, however, did not file a ULS application on behalf of NJ Transit for frequency pair 854/809.3375 MHz until April 28, 2009, after it had concluded a "short spacing" agreement with West Orange.<sup>18</sup>

6. When they filed the applications on behalf of West Orange and NYC both PCIA and IMSA certified compliance with the *Vacated Spectrum Public Notice* and verified that West Orange and NYC each could operate on 854/809.3125 MHz without causing interference to any other licensees.<sup>19</sup> The licensing staff granted the West Orange modification application on February 23, 2009, and dismissed the NYC application on March 3, 2009.<sup>20</sup>

7. On March 3, 2009, NYC objected to the grant of West Orange's modification application.<sup>21</sup> NYC argued that "PCIA showed a total disregard to the agreement established by LMCC in using an automated filing system."<sup>22</sup> NYC requested that the authorization for modification of license for WPCE346 be "cancelled" and that a "hold" be put on the granting of a license for the contested frequencies until IMSA and PCIA could conclude an agreement on the coordination of mutually exclusive applications.<sup>23</sup>

8. On March 6, 2009, IMSA, which coordinated the NYC application and the NJ Transit application, also filed an objection to the modification of West Orange's license.<sup>24</sup> IMSA alleged that West Orange's modification application was inconsistent with the filing procedure in the *Vacated Spectrum Public Notice*,<sup>25</sup> and that, by batch filing notifications, PCIA violated the Agreement reached during the January 12, 2009 conference call, *supra*.<sup>26</sup> IMSA argues that "PCIA's noncompliant application notifications resulted in exclusivity issues, exactly what the FCC Pre-Coordination Procedures and the Agreement were to prevent."<sup>27</sup> But for PCIA's noncompliant application notifications, IMSA claims that its application notifications on behalf of NYC and NJ Transit "would have had filing priority under the FCC's Pre-Coordination Procedures."<sup>28</sup>

9. IMSA adds that it agreed to negotiate with PCIA to resolve conflicts between PCIA's application for

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<sup>16</sup> FCC File No. 0003725074 (filed Feb. 3, 2009). NYC also applied for frequency pair 854/809.4375 MHz. *Id.*

<sup>17</sup> See Notice of Dismissal Reference No. 4839983 (dated Mar. 3, 2009) *re* FCC File No. 0003725074 (Dismissal Letter).

<sup>18</sup> See *infra*, ¶ 11.

<sup>19</sup> Certification Letter from Richard Klinsman, Chief Operating Officer, IMSA/IAFC (Jan. 13, 2009) *re* FCC File No. 0003725074. Certification Letter from Don Andrew, Director of Frequency Coordination Services, PCIA (filed Jan. 28, 2009) *re* FCC File No. 0003721208. PCIA also certified that frequency pair 854/809.3375 MHz was available for licensing. *Id.*

<sup>20</sup> Dismissal Letter. The staff dismissed NYC's application for frequency pairs 854/809.3125 MHz and 854/809.4375 MHz. *Id.* NYC reapplied for frequency pair 854/809.4375 MHz, which the staff granted under call sign WQKE581. See FCC File No. 0003788783 (filed Mar. 26, 2009).

<sup>21</sup> NYC Letter. In its objection, NYC claimed that it applied for frequency pairs 854/809.325 MHz and 854/809.3375 MHz. *Id.* As noted, however, NYC applied for frequency pair 854/809.4375 MHz, which the staff granted. See FCC File No. 0003788783.

<sup>22</sup> NYC Letter.

<sup>23</sup> *Id.*

<sup>24</sup> IMSA Letter at 1.

<sup>25</sup> *Id.* at 2.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

West Orange and IMSA's applications for NYC and NJ Transit.<sup>29</sup> IMSA claims that, in an email dated January 30, 2009, counsel for West Orange agreed to remove frequency pair 854/809.3125 MHz if it would resolve the frequency conflict with NYC and that West Orange agreed to execute a letter of concurrence with NJ Transit regarding frequency pair 854/809.3375 MHz.<sup>30</sup> IMSA claims that PCIA negotiated in "bad faith" by filing the West Orange modification application without notice to IMSA – and before negotiations had been concluded – thereby depriving NYC of access to frequency 854/809.3125 MHz and disrupting negotiations with NJ Transit over shared use of frequency pair 854/809.3375 MHz.<sup>31</sup> IMSA, in its objection, requested that frequency pair 854/809.3125 MHz be deleted from West Orange's license for WPCE346 and that the Commission permit West Orange and NJ Transit to negotiate a letter of concurrence regarding the use of 854/809.3375 MHz.<sup>32</sup>

10. On March 27, 2009, NJ Transit filed its own objection to the grant of West Orange's modification application.<sup>33</sup> NJ Transit states that West Orange and NJ Transit were still negotiating "to allow for mutual use of the frequency pair [854/809.3375 MHz] and to resolve any destructive interference concerns that may arise from either party,"<sup>34</sup> when, without notice to NJ Transit, PCIA filed an application on March 3, 2009 on behalf of West Orange before the parties could complete their short-spacing negotiations.<sup>35</sup> In its objection, NJ Transit urged the Commission to permit the parties to reach a short-spacing agreement regarding frequency pair 854/809.3375 MHz.<sup>36</sup>

11. On April 28, 2009, on behalf of NJ Transit, IMSA filed an application through ULS seeking the frequency pair 854/809.3375 MHz.<sup>37</sup> NJ Transit requested a waiver of the short-spacing table in Section 90.621(b)(4)<sup>38</sup> of the Commission's rules to utilize 854/809.3375 MHz at locations less than 88 km from West Orange's unconstructed facilities.<sup>39</sup> NJ Transit included a letter of concurrence from West Orange (West Orange LOC).<sup>40</sup> Specifically, the West Orange LOC recognized that NJ Transit "disputes" whether West Orange's previously granted application for 854/809.3375 MHz "was filed consistent with the applicable FCC Rules" and that the "parties wish to resolve this dispute without resort to litigation."<sup>41</sup> The Bureau's licensing staff granted the

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 3.

<sup>33</sup> NJ Transit Letter at 1.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 2.

<sup>36</sup> *Id.*

<sup>37</sup> FCC File No. 0003821824 (filed May 26, 2009). By letter dated January 6, 2009, IMSA also certified that frequency pair 854/809.3375 MHz would be available for licensing on January 28, 2009. See Letter from Richard Klinsman, IMSA/IAFC, Chief Operating Officer to Wireless Telecommunications Bureau, FCC (dated Jan. 6, 2009) attached to FCC File No. 0003821824.

<sup>38</sup> FCC File No. 0003821824 at Request for Waiver of Short Spacing Table at 1 *citing* 47 C.F.R. § 90.621(b)(4).

<sup>39</sup> West Orange filed a notification on ULS that it completed construction of frequency pairs 854/809.3125 MHz and 854/809.3375 MHz on February 23, 2010. See FCC File No. 0004133759 (filed Feb. 23, 2010) *re* WPCE346. West Orange later expanded its operations on these frequency pairs. See FCC File No. 0004626198 (filed Feb. 22, 2011) *re* WPCE346. West Orange recently renewed its authorization for WPCE346 and updated its contact information. See FCC File No. 0005663865 (filed Feb. 25, 2013).

<sup>40</sup> FCC File No. 0003821824 at "Short Spacing Resolution" and "Short Spacing Agreement."

<sup>41</sup> *Id.* at Short Spacing Resolution at 1 and Short Spacing Agreement at 1.

waiver on May 27, 2009 and subsequently granted NJ Transit's application on June 1, 2009.<sup>42</sup> NJ Transit, however, did not withdraw its objection to the West Orange application grant, which objection therefore remains pending.

### III. DISCUSSION

12. As an initial matter, we believe that IMSA, NYC and NJ Transit's objections are most properly characterized as informal requests for Commission action under Section 1.41 of the Commission's rules.<sup>43</sup> Based on our review of the record, we agree with IMSA, NYC and NJ Transit that PCIA should not have submitted West Orange's application to add frequency pairs 854/809.3125 and 854/809.3375 MHz to the license for WPCE346 before attempting to resolve the mutual exclusivity with the NYC and NJ Transit notifications.

13. The Commission's rules and the *800 MHz Vacated Spectrum Public Notice* require parties seeking authorizations in the 800 MHz band to first proceed through the frequency coordination process and to file applications through ULS only after successful coordination efforts.<sup>44</sup> The underlying purpose of the Commission's coordination requirements is to improve the efficient use of spectrum and reduce the delay and burden on Commission resources associated with mutually exclusive applications.<sup>45</sup> In the case of 800 MHz spectrum being relinquished by Sprint and made available to public safety, the Bureau further refined its coordination procedures specifically "to enable frequency coordinators to address and resolve conflicting applications prior to filing with the Commission."<sup>46</sup> Thus, in this case the conflicts in the applications should have been resolved by negotiation and settlement among the frequency coordinators involved.

14. Here, it appears that PCIA filed the West Orange application with the Commission, despite being in continuing negotiations with the other parties to remove the mutual exclusivity with their frequency proposals, thus lending credence to IMSA's accusation of bad faith on PCIA's part. Moreover, despite IMSA's uncontradicted statement that the coordinators – including PCIA – had agreed, on January 12, 2009, that application notifications must be filed manually, PCIA, two days later, disregarded the Agreement and used an automated application process to file its application notifications virtually at the instant that the notification window opened on January 14, 2009, thereby to have the "earliest notification date and time stamp" associated with PCIA's notifications. Other coordinators, filing manually, as all had agreed, had no chance of prevailing in time as against PCIA's "batch filing."

15. The notification process was not established to allow applicants to use artifice to become the "first notified." Instead, the stated purpose of the *Vacated Spectrum Public Notice* was "to enable frequency coordinators to address and resolve conflicting applications prior to filing with the Commission." Here, PCIA was aware that there were conflicting applications, engaged the other parties in negotiations, and then, without the conflicting applications being resolved, and without notice to the other parties, filed the West Orange application with the Commission. We decline to countenance PCIA's tactics and thus propose to modify West Orange's license to delete frequency pairs 854/809.3125 MHz and 854/809.3375 MHz. In so doing, we are faithful to the underlying purpose of the Commission's coordination procedures—the avoidance of mutual exclusivity and its attendant burden on Commission resources exemplified by the multiple pleadings submitted in this case. This matter demonstrates a clear failure of coordination and should have been resolved by negotiation and settlement between the frequency coordinators involved as well as the affected parties. In no event should the mutually exclusive

<sup>42</sup> NJ Transit filed a notification on ULS that it completed construction on frequency pair 854/809.3375 MHz on December 14, 2009. See FCC File No. 0004062785 (Dec. 14, 2009).

<sup>43</sup> 47 C.F.R. § 1.41.

<sup>44</sup> See 47 U.S.C. § 90.175(e). See also *Vacated Spectrum Public Notice*, 23 FCC Rcd. at 18345.

<sup>45</sup> Frequency Coordination in the Private Land Mobile Radio Services, PR Docket No. 83-737, *Report and Order*, 103 F.C.C.2d 1093, 1095 (Apr. 15, 1986) citing 47 U.S.C. § 151.

<sup>46</sup> *800 MHz Vacated Spectrum Public Notice*, 23 FCC Rcd. at 18345.

applications have been submitted to the Commission. We therefore reject any implication by PCIA and West Orange that West Orange's application should have prevailed because it was first-notified, and clarify that resolving applications by determining which applicant notified first is the decision of last resort, *i.e.*, that coordinators must first exhaust all other means of rationally resolving mutual exclusivity between or among applications before resorting to a first-filed analysis.<sup>47</sup> Moreover, notifications that are batch-filed, rather than manually filed, are entitled to no consideration in the first-filed analysis.

16. In *Aventura/Doral*, we recognized "that the 800 MHz Vacated Spectrum Public Notice stated that if conflicts were found between notifications, the earlier one would take precedence."<sup>48</sup> However, we stated that "this provision was intended to assist coordinators in negotiating the resolution of conflicting 800 MHz applications, not to be a substitute for negotiation."<sup>49</sup> We added that "[i]t was also not intended to give an automatic advantage to the coordinator with the fastest computer capable of 'batch filing' multiple applications as soon as an application window opens."<sup>50</sup> Accordingly, we clarified "that where mutually exclusive applications are filed on the same day in bands requiring frequency coordination, any conflicts that arise must be resolved by the relevant coordinators before the applications are filed with the Commission, or the conflicting applications will be dismissed."<sup>51</sup> In so finding, we sought to "ensure that frequency coordination does not become a game of chance but is instead a fair and transparent process in which frequency coordinators use their technical expertise to resolve mutually exclusive applications in the public interest."<sup>52</sup>

17. Here, as in *Aventura/Doral*, the process failed because "the conflicts in the applications should have been resolved by negotiation and settlement between the frequency coordinators involved."<sup>53</sup> Unlike the circumstances in *Aventura/Doral*, however, PCIA "batch filed" its application before it negotiated a settlement with IMSA regarding the NYC and NJ Transit applications. As a result, West Orange's application effectively blocked NYC's application while NJ Transit continues to object to West Orange's application.

18. Section 316 of the Communications Act, as amended, provides the appropriate vehicle for resolving this matter. Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.<sup>54</sup> We find that the proposed modification would serve the public interest by reverting the parties to the *status quo ante* so that the frequency coordinators, and the parties, may resolve the conflict between West Orange, NYC, and NJ Transit.

#### IV. CONCLUSION

19. Based on the record before us, we find that a modification of West Orange's license for Station WPCE346 to delete frequency pairs 854/809.3125 MHz and 854/809.3375 MHz is appropriate. In accordance with

<sup>47</sup> "Coordinators may select the prevailing application on the basis of its notification time, but only in the event that there is no engineering solution or other rational basis on which to resolve mutual exclusivity." City of Aventura, Florida and City of Doral, Florida, *Memorandum Opinion and Order*, \_\_ FCC Rcd \_\_\_, DA 13-633, at ¶ 10 (PSHSB rel. Apr. 8, 2013) (*Aventura/Doral*). "In order to qualify for a time preference, an application must be filed manually as specified in the coordinators' Memorandum of Agreement, *supra*. *Id.* 'Batch filed' applications, timed to be computer-filed the instant the application window opens, may not be afforded a time preference." *Id.* at note 32.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at ¶ 9.

<sup>54</sup> 47 U.S.C. § 316(a) (requiring that we notify the affected station(s) of the proposed modification(s) and the public interest reasons for the action, and afford at least thirty days to respond).

Section 1.87 of the Commission's rules, we will not issue a modification order until West Orange has received notice of our proposed action and has had an opportunity to interpose a protest.<sup>55</sup> To protest the modification, West Orange must, within 30 days of the release of this *Memorandum Opinion and Order*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, Room TW-A325, Washington, DC 20554.<sup>56</sup> If no protest is filed, West Orange will have waived its right to protest the modification and will be deemed to have consented to the modification.<sup>57</sup>

## V. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of Commission's Rules, 47 C.F.R. § 1.41, the Informal Objection to rescind the grant of the license modification for Station WPCE346, submitted by the International Municipal Signal Association on March 6, 2012, IS GRANTED.

21. IT IS FURTHER ORDERED, that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of Commission's Rules, 47 C.F.R. § 1.41, the Informal Objection to rescind the grant of the license modification for Station WPCE346, submitted by the City of New York, New York, IS GRANTED.

22. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of Commission's Rules, 47 C.F.R. § 1.41, the Informal Objection to rescind the grant of the license modification for Station WPCE346, submitted by the New Jersey Transit Corporation is GRANTED.

23. IT IS PROPOSED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316, and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that the license for Trunked Public Safety 800 MHz Station WPCE346, Township of West Orange, New Jersey, BE MODIFIED by deleting the frequency pairs 854/809.3125 MHz and 854/809.3375 MHz.

24. IT IS FURTHER ORDERED that this *Memorandum Opinion and Order and Order Proposing Modification* shall be sent by certified mail, return receipt requested, to Dominic M. Allegrino Jr., Township of West Orange, 66 Main Street, West Orange, NJ 07052.

25. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm  
Deputy Chief,  
Policy and Licensing Division  
Public Safety and Homeland Security Bureau

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<sup>55</sup> 47 C.F.R. § 1.87(a).

<sup>56</sup> The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail, and hand-delivered or messenger-delivered documents. Documents sent by commercial overnight mail (other than United States Postal Service, Express Mail, and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. See FCC Announces Change in Filing Locations for Paper Documents, *Public Notice*, 24 FCC Rcd 14312 (2009).

<sup>57</sup> 47 C.F.R. § 1.87(g) and (h).